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**IN THE
COURT OF APPEALS OF INDIANA**

THADDEUS HARRIS,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 49A02-0610-CR-886
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Andy Sheff, Judge Pro Tempore
Cause No. 49F15-0511-FD-201640

October 12, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

Thaddeus Harris (“Harris”) appeals his conviction for residential entry, a class D felony.

We affirm.

ISSUE

Whether evidence was sufficient to find Harris guilty of residential entry.

FACTS

On November 22, 2005, at approximately 10:00 a.m., Ross Gullet (“Gullet”), was inside his residence preparing to take his morning shower when he heard knocking. Initially, Gullet ignored the knocking, but when it continued, he turned off the shower, redressed himself and proceeded out of his bedroom toward his front door. Before Gullet reached his front door, he heard a loud crash, which sounded like the smashing of wood and a door being kicked in. Gullet ran to the end of the hallway, looked around the corner, and observed Harris turning around and running down the sidewalk, away from Gullet’s residence.

Immediately, Gullet observed that there were splinters of wood from the doorjamb all over the floor. Gullet watched Harris enter a red Chevrolet Camero RS with black stripes. He also noticed that there was another occupant in the car; however, he could not determine whether the other occupant was male or female.

Gullet watched the Camero as the driver drove down Georgetown Road. When Gullet lost sight of the car, he telephoned 911, and gave the police a full description of the car that Harris was driving. Within minutes, police stopped a red Chevrolet Camero

with black stripes “barely over a mile” from Gullet’s residence. Tr. 12. Gullet was taken to the scene, where he saw “the exact same car” that Harris had driven away and he identified Harris as “the guy” that he had seen at his front door after it had been kicked in. Tr. 12.

On November 22, 2005, the State charged Harris with residential entry, a class D felony. On September 14, 2006, Harris was tried in a bench trial. The trial court found Harris guilty of residential entry.

DECISION

Harris argues that there was insufficient evidence to support his conviction for residential entry. Specifically, he argues that the State failed to prove that he “broke and entered the residence” because “there is no proof that [he] entered the residence.” Harris’s Br. at 5, 6. We disagree.

When addressing a claim of insufficient evidence, we do not reweigh the evidence or judge the credibility of the witnesses. *McHenry v. State*, 820 N.E.2d 124, 126 (Ind. 2005). Moreover, we “must consider only the probative evidence and reasonable inferences supporting the verdict.” *Id.* Thus, we “must affirm” if the probative evidence and reasonable inferences drawn therefrom could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt. *Id.*

A person commits residential entry when he 1) knowingly or intentionally; 2) breaks and enters; 3) into a dwelling of another person. Ind. Code § 35-43-2-1.5. To convict a person of residential entry, the State must prove each element of the crime beyond a reasonable doubt. *Sandstrom v. Montana*, 442 U.S. 510, 512, 99 S.Ct. 2450, 61

L.Ed.2d 39 (1979). In order to establish that a breaking has occurred for purposes of residential entry, the State need only introduce evidence from which the trier of fact could reasonably infer that the slightest force was used to gain unauthorized entry. *Young v. State*, 846 N.E.2d 1060, 1063 (Ind. Ct. App. 2006). The element of breaking may be proved entirely by circumstantial evidence if an inference may reasonably be drawn from that evidence which supports the verdict. *Utley v. State*, 589 N.E.2d 232, 241 (Ind. 1992), *cert. denied*.

An illegal entry does not require an intruder to step into the victim's dwelling. *Patterson v. State*, 729 N.E.2d 1035, 1043 (Ind. Ct. App. 2000) (defendant guilty of residential entry when he broke window shattering glass inside victim's home and left his blood on victim's curtain even though he never entered victim's home.) An entry can include illegal or unauthorized acts such as opening an unlocked door, window, or pushing a door when it is slightly ajar. *Jacobs v. State*, 454 N.E.2d 894, 899 (Ind. Ct. App. 1983).

In this case, Gullet testified as follows:

- Q. I would direct your attention to a little after ten o'clock that morning. Can you tell us what happened?
- A. Yes, I was getting ready to take my shower in the morning and I was running the water and I heard the door knocking and I just figured it was an old friend of mine that usually stops by once in awhile. So, I was just basically going to ignore it and as it just came knocking and knocking I said to myself that I better answer it and let them in.
- Q. How long was the knocking?
- A. Probably about a minute, maybe a minute and a half. It took me that long once I turned the shower off to throw some clothes on quickly and start heading out my bedroom door.
- Q. So, at first you were going to ignore the knocking and just take a shower.

- A. That's right, I was going to take the shower.
Q. But the knocking went on for sixty or ninety seconds.
A. Yes, that's right.
Q. So you threw your clothes on, then what did you do?
A. Started walking down the hallway and then all of a sudden I heard a big crash in my front door.

* * *

- Q. Can you kind of describe what the crash sounded like?
A. It sounded like smashing wood and a door being kicked in.

* * *

- Q. What did you see when you looked there?
A. I saw him turn around and run away.
Q. And what did you do when he started running down your sidewalk?
A. Well, the first thing I did was I was looking down at the floor because there were splinters of wood all over and I was in my bare feet and I didn't want to step on any nails or anything from the broken wood from the door jamb

Tr. 6, 7, 9.

The case of *Young* is instructive because the evidence therein did not establish that Young did break and enter the victim's apartment; instead, he merely entered it. The defendant fled from several officers through an opening in the ceiling of the closet that led to the apartment's attic. When officers searched the attic, they found another opening leading down to a closet in a different apartment. The defendant was eventually apprehended in Dellinger's apartment. Dellinger testified at trial that the entry to the attic in his apartment was never covered and that he never paid attention to the ceiling of the closet.

However, unlike the victim in *Young*, who was not able to testify as to whether the opening in the ceiling of his closet was either open or closed prior to the defendant entering his apartment, Gullet testified that he heard incessant knocking at his front door for about sixty or ninety seconds. He also testified that he heard what sounded like

“smashing wood and a door being kicked in,” and immediately thereafter, saw that his door had been kicked in, and that Harris was turning to run away.

In *Patterson*, the defendant never entered into the victim’s residence but broke the victim’s window and shattered glass inside the victim’s home. We found such evidence sufficient to sustain Patterson’s conviction for residential entry. Similarly, the evidence does not show that Harris entered Gullet’s residence, but it did show that he broke Gullet’s door and shattered wood splinters inside Gullet’s home.

We conclude that the trial court could have reasonably inferred from Gullet’s testimony that Harris broke Gullet’s door and shattered wood splinters into the residence. Therefore, there is sufficient evidence to support Harris’s conviction for residential entry beyond a reasonable doubt.

Affirmed.

KIRSCH, J., and MATHIAS, J., concur.